

UNITED STATES OF AMERICA
Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes)

Docket No. R2000-1

OFFICE OF THE CONSUMER ADVOCATE OPPOSITION
TO MOTION OF UNITED STATES POSTAL SERVICE TO
STRIKE PORTIONS OF THE WRITTEN RESPONSE OF
WITNESS SMITH TO NOTICE OF INQUIRY NO. 4.
(August 25, 2000)

To: Hon. Edward J. Gleiman
Presiding Officer

The Office of the Consumer Advocate ("OCA"), pursuant to Rule 21(b) of the Rules of Practice and Procedure, hereby answers and opposes the motion of the United States Postal Service ("USPS") filed August 22, 2000 to strike portions of the written response of OCA witness Smith to Notice of Inquiry No. 4. Pursuant to the direction of the Presiding Officer at oral hearing, responses to the motion are due by August 28, 2000.

Written testimony of OCA witness Smith was filed August 21, 2000 pursuant to the Commission's invitation in Notice of Inquiry No. 4 Concerning Mail Processing Variability Models ("Notice"). The USPS motion claims that portions of the response "egregiously exceed the scope of the inquiry initiated by the Commission" as they do not "directly relate to the family of issues raised by the NOI." (Motion at 1.) The OCA respectfully disagrees and asks that the motion be denied.

The Notice specifically invited written discussion by either testimony or comment whether certain statistical test results including those already performed by witness Bozzo “establish the validity of any particular model or family of models.” (Notice at 2.) The Postal Service surprisingly claims that the grounds which form the basis for Dr. Smith’s conclusion that the models are defective have been set forth previously in Dr. Smith’s direct testimony. This logic ignores the breadth of the questions posed in the Notice. The Postal Service overlooks the question in part (f) of the Notice: “Parties are asked to discuss whether...there may be theoretical grounds for concluding that a rejected model could provide a better estimate of variability than either model A or B.” (Notice at 3.) Dr. Smith’s testimony responds directly to this request with a resounding “no.” There are no theoretical grounds for concluding a rejected model provides a better estimate than models A and B. Clearly, a simple “no” is not discussion. Dr. Smith explains why his answer is no: he explains the reasons the models themselves are insufficient

Many of the points Dr. Smith makes with respect to Dr. Bozzo’s model are contained in greater detail in his original testimony. His views are presented here in the context of the models suggested in the Notice, which include not only the model developed by witness Bozzo, denominated as Model A, but also the alternative hypothesis denominated as Model B and other models. The deficiencies listed by Dr. Smith are for the first time explained with respect to Model B.

The OCA exercised its option under the Notice to express its response through testimony rather than comment. Unfortunately, the Postal Service would like to arrogate for itself the option to select the manner of the OCA response. For instance,

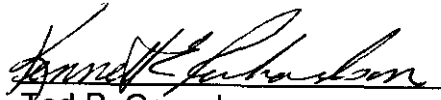
the Postal Service apparently would have no objection if the OCA filed “a brief response setting forth Dr. Smith’s limited views.” (Motion at 3.) However, the OCA exercised its option and chose to file testimony sponsored by Dr. Smith to set forth his views. In fact, if the information had been filed as comments, then it would not have been evidence and thus not subject to cross-examination, presumably an advantage for the parties.

The Postal Service further supports its objection to the testimony on the specious claim that the material filed is “unduly repetitious and cumulative.” It is clear that in contradiction to the express intent of the Notice to obtain a full discussion of the validity of the models, the Postal Service does not wish to see in the record Dr. Smith’s pointed statements fundamentally undermining their presentation. The Postal Service motion would allow testimony containing only two pages of conclusive statements, including conclusions never before made with reference to Model B. It suggests these pages are sufficient to make Dr. Smith’s points. The Postal Service finds that the remaining five pages of discussion are too repetitious and cumulative to be admissible as evidence. This is a strained and strange argument, given the voluminous nature of the Postal Service response to the Notice and rebuttal evidence it has filed on this subject, some of which is a rehash of its own direct case.

Wherefore, the motion of the Postal Service to strike portions of Dr. Smith’s testimony should be denied.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

A handwritten signature in black ink, appearing to read "Ted P. Gerarden", is written over a horizontal line.

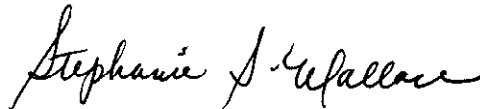
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

A handwritten signature in cursive script, reading "Stephanie S. Wallace".

STEPHANIE S. WALLACE

Washington, D.C. 20268-0001
August 25, 2000